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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAYCOB TYLER KUTZERA,

Defendants.

CR 17-48-GF-BMM

OFFER OF PROOF

Defendant Jaycob Tyler Kutzera has signed a plea agreement pursuant to Rule 11(c)(1)(A) and (B) which contemplates his plea of guilty to counts 1, 5 and 36 of the indictment. Counts 1, 5 and 36 charge the crime of sexual exploitation of a child, in violation of 18 U.S.C. § 2251(a). The defendant will also admit the forfeiture allegation. The defendant's plea of guilty will be unconditional.

The United States presented any and all formal plea offers to the defendant in writing. The plea agreement entered into by the parties and filed with the court does not represent, in the government's view, the most favorable offer extended to the defendant. *See Missouri v. Frye*, 132 S.Ct. 1399 (2012).

ELEMENTS. In order to prove the charge in counts 1, 5, and 36 against the defendant at trial, the United States would have to prove the following elements beyond a reasonable doubt:

Count 1 - Sexual Exploitation of a Child, in violation of 18 U.S.C. § 2251:

First, at the time, "Jane Doe" was under the age of eighteen years;

Second, that on or about April 7, 2016, the defendant knowingly employed, used, persuaded, induced, enticed or coerced the minor to take part in sexually explicit conduct for the purpose of producing a visual depiction of such conduct; and

Third, knowing and having reason to know that such visual depiction would be transported in and affecting interstate and foreign commerce, and using materials that have been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer.

Count 5 - Sexual Exploitation of a Child, in violation of 18 U.S.C. § 2251:

First, at the time, "Jane Doe" was under the age of eighteen years;

Second, on or about July 10, 2016, the defendant knowingly employed, used, persuaded, induced, enticed or coerced the minor to take part in sexually explicit conduct for the purpose of producing a visual depiction of such conduct; and

Third, knowing and having reason to know that such visual depiction would be transported in and affecting interstate and foreign commerce, and using materials that have been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer.

Count 36- Sexual Exploitation of a Child, in violation of 18 U.S.C. § 2251:

First, at the time, “Jane Doe” was under the age of eighteen years;

Second, on or about October 1, 2016, the defendant knowingly employed, used, persuaded, induced, enticed or coerced the minor to take part in sexually explicit conduct for the purpose of producing a visual depiction of such conduct; and

Third, knowing and having reason to know that such visual depiction would be transported in and affecting interstate and foreign commerce, and using materials that have been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer.

Forfeiture Allegation:

The United States would have to prove the defendant used the following described property to commit, or facilitate the commission of, the offense in this case:

- HP Slimline Desktop computer, s/n 4C14220ZX4, and
- LG LGMS345 cell phone, s/n 512CYAS357768.

PROOF. If called upon to prove this case at trial, and to provide a factual basis for the defendant’s plea, the United States would present, by way of the testimony of law enforcement officers, lay and expert witnesses, and physical evidence, the following:

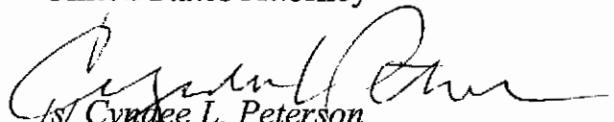
On April 13, 2016, the Great Falls Police Department received information from the mother of a 12-year-old female (referred to herein as Jane Doe). At that time, the mother and daughter lived in Great Falls, Montana. The mother discovered Jane Doe had been engaging in text message conversations that were

explicit and sexual in nature. The mother turned the daughter's cell phone over to the police and allowed them to take over Jane Doe's online account.

On April 14, 2016, Great Falls Police Department Detective Jesse Slaughter determined that "Jacob" was Defendant Jaycob Kutzera who lived in California. Detective Slaughter reviewed and preserved the Facebook communications between Jane Doe and Kutzera. The communications are sexual in nature and include Jane Doe sending sexually explicit image and video files to Defendant Kutzera. The content of the messages include Defendant Kutzera requesting sexually explicit depictions of Jane Doe. Kutzera knew that Jane Doe was 12 years old. The image and videos were sent on April 7, 2016, July 10, 2016, and October 1, 2016. Kutzera utilized the computer and cell phone identified in the indictment to commit the crimes.

DATED this 5th day of March, 2018.

KURT G. ALME
United States Attorney

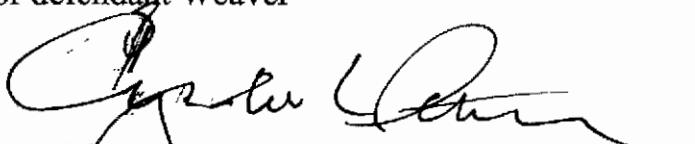

/s/ Cyndee L. Peterson
Assistant U.S. Attorney
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on 3/5/18, a copy of the foregoing document
was served on the following persons by the following means:

(1) CM/ECF
() Hand Delivery
() U.S. Mail
() Overnight Delivery Service
() Fax
() E-Mail

1) Vann Arvanetes, Counsel for defendant Weaver



/s/ Cyndee L. Peterson
Assistant U.S. Attorney
Attorney for Plaintiff